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8  
9 **BEFORE THE**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 77/07 - 38

12 RAMZEY'S AUTO BODY & PAINT;  
ROJAS RAMZEY, OWNER  
13 1047 N. Maple  
Fresno, California 93702  
14 Automotive Repair Dealer Registration  
No. AJ 223732

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, §11520]

15  
16 Respondent.

17 **FINDINGS OF FACT**

18 1. On or about February 22, 2008, Complainant Sherry Mehl, in her official  
19 capacity as the Chief of the Bureau of Automotive Repair, Department of Consumer Affairs,  
20 filed Accusation No. 77/07 - 38 against Ramzey's Auto Body & Paint; Rojas Ramzey, Owner  
21 (Respondent) before the Director of Consumer Affairs.

22 2. On or about September 19, 2002, the Bureau of Automotive Repair  
23 (Bureau) issued Automotive Repair Dealer Registration No. AJ 223732 to Respondent. The  
24 Automotive Repair Dealer Registration was in full force and effect at all times relevant to the  
25 charges brought herein and will expire on September 30, 2007, unless renewed.

26 3. On or about February 29, 2008, Scotty Jorgenson, an employee of the  
27 Department of Justice, served by Certified and First Class Mail a copy of the Accusation  
28 No. 77/07 - 38, Statement to Respondent, Notice of Defense, Request for Discovery, and

1 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record  
2 with the Bureau, which was and is: 1047 N. Maple, Fresno, California 93702.

3 A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

4 4. Service of the Accusation was effective as a matter of law under the  
5 provisions of Business and Professions Code section 124.

6 5. On or about March 10, 2008, the aforementioned documents were returned  
7 by the U.S. Postal Service marked "No Forwarding Address." A copy of the returned documents  
8 are attached as exhibit B and is incorporated herein by reference.

9 6. Government Code section 11506 states, in pertinent part:

10 (c) The respondent shall be entitled to a hearing on the merits if the  
11 respondent files a notice of defense, and the notice shall be deemed a specific  
12 denial of all parts of the accusation not expressly admitted. Failure to file a notice  
of defense shall constitute a waiver of respondent's right to a hearing, but the  
agency in its discretion may nevertheless grant a hearing.

13 7. Respondent failed to file a Notice of Defense within 15 days after service  
14 upon him of the Accusation, and therefore waived his right to a hearing on the merits of  
15 Accusation No. 77/07 - 38.

16 8. California Government Code section 11520 states, in pertinent part:

17 (a) If the respondent either fails to file a notice of defense or to appear at  
18 the hearing, the agency may take action based upon the respondent's express  
19 admissions or upon other evidence and affidavits may be used as evidence without  
any notice to respondent.

20 9. Pursuant to its authority under Government Code section 11520, the  
21 Director finds Respondent is in default. The Director will take action without further hearing  
22 and, based on the evidence on file herein, finds that the allegations in Accusation No. 77/07 - 38  
23 are true.

#### 24 **DETERMINATION OF ISSUES**

25 1. Based on the foregoing findings of fact, Respondent Ramzey's Auto Body  
26 & Paint; Rojas Ramzey has subjected his Automotive Repair Dealer Registration No. AJ 223732  
27 to discipline.

28 ///

1                   2.     A copy of the Accusation is attached.  
2                   3.     The agency has jurisdiction to adjudicate this case by default.  
3                   4.     The Director of Consumer Affairs is authorized to revoke  
4 Respondent's Automotive Repair Dealer Registration based upon the following violations  
5 alleged in the Accusation:

- 6                   a.     Business and Professions Code section 9884.7(a)(1) (untrue and  
7                                 misleading statements).  
8                   b.     Section 9884.7(a)(4) (fraud).  
9                   c.     Section 9884.7(a)(2) (no odometer reading).  
10                  d.     Section 9884.7(a)(6) (failure to comply with Automotive Repair).  
11                  e.     Section 9884.7(a)(7) (trade standards).  
12

13                                 **ORDER**

14                   IT IS SO ORDERED that Automotive Repair Dealer Registration No. AJ 223732,  
15 heretofore issued to Respondent Ramzey's Auto Body & Paint; Rojas Ramzey, Owner, is  
16 revoked.  
17

18                   Pursuant to Government Code Section 11520(c), respondent may serve a written  
19 motion requesting that the Decision be vacated and stating the grounds relied on within  
20 seven (7) days after service of this decision on the respondent. The agency, in its  
21 discretion, may vacate the Decision and grant a hearing on a showing of good cause, as  
22 defined in the statute.  
23

24                   The Decision shall be effective on May 1, 2008.

25  
26 DATED: March 26, 2008

*P. J. Harris*

PATRICIA HARRIS  
Deputy Director, Bureau Relations  
Department of Consumer Affairs

Exhibit A

Accusation No. 77/07 - 38

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ARTHUR D. TAGGART  
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9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 77107-38

13 **RAMZEY'S AUTO BODY & PAINT**  
1047 N. Maple  
14 Fresno, California 93702  
**ROJAS R. RAMZEY, OWNER**

**A C C U S A T I O N**

15 Automotive Repair Dealer Registration  
No. AJ 223732

16 Respondent.

17  
18 Sherry Mehl ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the  
21 Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

22 **Automotive Repair Dealer Registration**

23 2. On or about September 19, 2002, the Bureau issued Automotive Repair  
24 Dealer Registration Number AJ 223732 ("registration") to Rojas R. Ramzey ("Respondent"),  
25 doing business as Ramzey's Auto Body & Paint. The registration expired on September 30,  
26 2007.

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3. Business and Professions Code ("Code") section 9884.7 states, in pertinent part:

(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.

(1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(2) Causing or allowing a customer to sign any work order that does not state the repairs requested by the customer or the automobile's odometer reading at the time of repair.

(4) Any other conduct which constitutes fraud.

(6) Failure in any material respect to comply with the provisions of this chapter [the Automotive Repair Act (Bus. & Prof. Code, 9880, et seq.)] or regulations adopted pursuant to it.

(7) Any willful departure from or disregard of accepted trade standards for good and workmanlike repair in any material respect, which is prejudicial to another without consent of the owner or his or her duly authorized representative.

(b) Except as provided for in subdivision (c), if an automotive repair dealer operates more than one place of business in this state, the director pursuant to subdivision (a) shall only invalidate temporarily or permanently the registration of the specific place of business which has violated any of the provisions of this chapter. This violation, or action by the director, shall not affect in any manner the right of the automotive repair dealer to operate his or her other places of business.

(c) Notwithstanding subdivision (b), the director may invalidate temporarily or permanently, the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

4. Code section 9884.8 states:

All work done by an automotive repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all service work done and parts supplied. Service work and parts shall be listed separately on the invoice, which shall also state separately the subtotal prices for service work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to

1 each. If any used, rebuilt, or reconditioned parts are supplied, the invoice shall  
2 clearly state that fact. If a part of a component system is composed of new and  
3 used, rebuilt or reconditioned parts, that invoice shall clearly state that fact. The  
4 invoice shall include a statement indicating whether any crash parts are original  
equipment manufacturer crash parts or nonoriginal equipment manufacturer  
aftermarket crash parts. One copy of the invoice shall be given to the customer  
and one copy shall be retained by the automotive repair dealer.

5 5. Code section 9884.9 states, in pertinent part:

6 (a) The automotive repair dealer shall give to the customer a written  
7 estimated price for labor and parts necessary for a specific job. No work shall be  
8 done and no charges shall accrue before authorization to proceed is obtained from  
9 the customer. No charge shall be made for work done or parts supplied in excess  
10 of the estimated price without the oral or written consent of the customer that  
11 shall be obtained at some time after it is determined that the estimated price is  
12 insufficient and before the work not estimated is done or the parts not estimated  
13 are supplied. Written consent or authorization for an increase in the original  
14 estimated price may be provided by electronic mail or facsimile transmission from  
the customer. The bureau may specify in regulation the procedures to be followed  
by an automotive repair dealer if an authorization or consent for an increase in the  
original estimated price is provided by electronic mail or facsimile transmission.  
If that consent is oral, the dealer shall make a notation on the work order of the  
date, time, name of person authorizing the additional repairs and telephone  
number called, if any, together with a specification of the additional parts and  
labor and the total additional cost, and shall do either of the following:

15 (1) Make a notation on the invoice of the same facts set forth in the  
notation on the work order.

16 (2) Upon completion of the repairs, obtain the customer's signature or  
17 initials to an acknowledgment of notice and consent, if there is an oral consent of  
the customer to additional repairs, in the following language:

18 "I acknowledge notice and oral approval of an increase in the original estimated  
19 price.

20 \_\_\_\_\_  
(signature or initials)"

21 Nothing in this section shall be construed as requiring an automotive  
22 repair dealer to give a written estimated price if the dealer does not agree to  
perform the requested repair.

23 6. Code section 9884.13 provides, in pertinent part, that the expiration of a  
24 valid registration shall not deprive the director or chief of jurisdiction to proceed with a  
25 disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a  
26 registration temporarily or permanently.

27 7. Code section 477 provides, in pertinent part, that "Board" includes  
28 "bureau," "commission," "committee," "department," "division," "examining committee,"

1 "program," and "agency." "License" includes certificate, registration or other means to engage  
2 in a business or profession regulated by the Code.

3 **COST RECOVERY**

4 8. Code section 125.3 provides, in pertinent part, that a Board may request  
5 the administrative law judge to direct a licensee found to have committed a violation or  
6 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
7 and enforcement of the case.

8 **CONSUMER COMPLAINT (SCOTT) - 1970 CHEVROLET EL CAMINO**

9 9. On or about February 16, 2006, the Bureau received a Consumer  
10 Complaint from William Scott ("consumer") regarding repairs to his 1970 Chevrolet El Camino,  
11 California License Plate No. 47148G, performed by Respondent on or about May 11, 2005.  
12 Encompass/Hagarty Insurance Company ("EHIC"), paid Respondent \$10,876.97 for the repairs.  
13 The consumer was not satisfied with the repair work performed by Respondent and took the  
14 vehicle to Robinson's Auto Body Shop. That facility provided the consumer with an estimate of  
15 \$8,177.35 to rework the vehicle. On or about February 24, 2006, the Bureau inspected the  
16 consumer's vehicle. The inspection revealed that Respondent charged the consumer and/or  
17 EHIC \$1,509.31 for parts and labor that Respondent failed to provide, as follows:

- 18 a. Respondent failed to refinish the radiator support panel.  
19 b. Respondent failed to remove and replace the coolant recovery tank.  
20 c. Respondent failed to remove and replace the left and right engine mount.  
21 d. Respondent failed to remove and install the left and right engine mount  
22 brackets.  
23 e. Respondent failed to remove and install the right front belt moulding.  
24 f. Respondent failed to repair the front sag frame.  
25 g. Respondent failed to repair the buckle in the front frame.  
26 h. Respondent failed to repair the mash in the front frame.

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1                   b.     Section 9884.9, subdivision (a)

2                   i.     Respondent failed to provide the consumer with a written  
3 estimated price for services performed and parts provided for a specific job prior to  
4 commencement of repairs.

5                   ii.    Respondent failed to obtain the consumer's authorization to change  
6 the method of repairs.

7                   CONSUMER COMPLAINT (HOSTON) - 2002 NISSAN ALTIMA

8                   14.    On or about June 14, 2006, the Bureau received a Consumer Complaint  
9 from Jarreau Hoston ("consumer"), regarding repairs to his 2002 Nissan Altima, California  
10 License Plate No. 4WWK922, performed by Respondent on or about May 12, 2006. The  
11 consumer paid Respondent \$6,794.39, which consisted of insurance proceeds and a portion of the  
12 consumer's deductible for the repairs. Coast National Insurance Company ("CNIC") paid  
13 Respondent \$89.80 for supplemental repairs. Respondent provided the consumer with Invoice  
14 Number 1822. The consumer was not satisfied with the repair work performed by Respondent  
15 and contacted the Bureau. On or about July 18, 2006, the consumer took the vehicle to  
16 Schmidt's Auto Body Shop and met with the Bureau. The Bureau inspected and photographed  
17 the vehicle using CNIC's Estimate Number 20060003612443107100. That inspection revealed  
18 that Respondent charged the consumer and CNIC \$3,250.51 for parts and labor that Respondent  
19 failed to provide, as follows:

20                   a.     Respondent failed remove and replace the rear bumper absorber.

21                   b.     Respondent removed and replaced the rear impact bar with an aftermarket  
22 part instead of a new Original Manufacturer Equipment ("OEM") part.

23                   c.     Respondent repaired the rear body panel instead of replacing it.

24                   d.     Respondent repaired the left quarter panel instead of replacing it.

25                   e.     Respondent repaired the left corner panel instead of replacing it.

26                   f.     Respondent repaired the right corner panel instead of replacing it.

27                   g.     Respondent failed to remove and install the left door belt moulding.

28                   ///

- 1 h. Respondent removed and replaced the front bumper cover with an  
2 aftermarket part instead of an OEM part.
- 3 i. Respondent failed to remove and replace the front license plate bracket.
- 4 j. Respondent failed to remove and replace the hood lock.
- 5 k. Respondent failed to remove and replace the under hood labels.
- 6 l. Respondent failed to remove and install the left front fender liner.
- 7 m. Respondent failed to remove and replace the air conditioner condenser.
- 8 n. Respondent failed to evacuate the air conditioning system.
- 9 o. Respondent failed to recharge the air conditioning system.
- 10 p. Respondent failed to remove and install the vehicle's back glass.
- 11 q. Respondent failed to restore corrosion protection.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 **(Untrue or Misleading Statements)**

14 15. Respondent is subject to discipline under Code section 9884.7, subdivision  
15 (a)(1), in that on or about May 12, 2006, Respondent made statements which he knew or which  
16 by exercise of reasonable care he should have known were untrue or misleading. Respondent  
17 falsely represented to the consumer and CNIC on Repair Order Number 1822 that the consumer's  
18 vehicle had been repaired pursuant to the insurance estimate. In fact, Respondent failed to  
19 perform services and/or repairs, as more particularly set forth in paragraph 14, subparagraphs a  
20 through q, above.

21 **SIXTH CAUSE FOR DISCIPLINE**

22 **(Fraudulent Acts)**

23 16. Respondent is subject to discipline under Code section 9884.7, subdivision  
24 (a)(4), in that on or about June 1, 2006 and June 23, 2006, Respondent committed acts which  
25 constitute fraud by accepting payment from the consumer and CNIC to repair the consumer's  
26 vehicle pursuant to the insurance estimate when, in fact, Respondent failed to perform services  
27 and/or repairs, as more particularly set forth in paragraph 14, subparagraphs a through q, above.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Set Forth Current Odometer Reading on a Signed Document)**

3 17. Respondent is subject to discipline under Code section 9884.7, subdivision  
4 (a)(2), in that on or about May 12, 2006, Respondent provided the consumer with Repair Order  
5 Number 1822, which did not set forth the vehicle's current odometer reading.

6 **EIGHTH CAUSE FOR DISCIPLINE**

7 **(Departure From Trade Standards)**

8 18. Respondent's registration is subject to discipline under Code section  
9 9884.7, subdivision (a)(7), in that on or about May 12, 2006, Respondent willfully departed from  
10 or disregarded accepted trade standards for good and workmanlike repair by failing to materially  
11 comply with section 3365, subdivision (b) of California Code of Regulations, title 16.  
12 Respondent failed to apply corrosion protection to the welds on the left rear quarter panel.

13 **NINTH CAUSE FOR DISCIPLINE**

14 **(Failure to Comply with the Automotive Repair Act)**

15 19. Respondent is subject to discipline under Code section 9884.7, subdivision  
16 (a)(6), in that on or about May 14, 2006, Respondent failed to materially comply with sections of  
17 that Code, as follows:

18 a. **Section 9884.8:** Respondent failed to provide the consumer with an  
19 invoice, which described all service work performed and parts supplied.

20 b. **Section 9884.9, subdivision (a)**

21 i. Respondent failed to provide the consumer with a written  
22 estimated price for parts and labor for a specific job prior to commencement of repairs.

23 ii. Respondent failed to obtain the consumer's authorization to change  
24 the method of repairs.

25 **UNDERCOVER OPERATION - AUGUST 31, 2006**

26 20. On or about August 31, 2006, a Bureau undercover operator using the alias  
27 Kenneth Walker ("operator") drove a Bureau-documented 1998 GMC Yukon, California License  
28 Plate Number 5BKA637, to Respondent's facility for collision repairs. The operator spoke with

Respondent and provided him with California State Automobile Association ("CSAA") Estimate Number 02-AM11145. The operator told Respondent that he wanted the repairs performed pursuant to the CSAA estimate. Respondent prepared Repair Order Number 1909. The operator signed the repair order and was provided with a copy of the document; however, the document did not contain the vehicle's current odometer reading.

21. On or about September 11, 2006, the operator contacted Respondent to inquire about the repairs. Respondent informed the operator that he had been in contact with CSAA and had received approval to replace the left rear door hinges. Further, Respondent told the operator that CSAA also approved repairing the left rear quarter panel instead of replacing it. However, CSAA never authorized Respondent to repair the left rear quarter panel.

22. On or about September 15, 2006, the operator returned to Respondent's facility to retrieve the vehicle. The operator paid Respondent a \$500 deductible. The operator initialed a copy of Repair Order Number 1909; however, he was not provided with a final invoice. CSAA paid Respondent \$3,011.07 for the repairs, including the supplemental repairs.

23. On or about September 27, 2006, the Bureau began reinspecting the vehicle. That reinspection revealed that Respondent charged the operator and CSAA \$1,288.04 for parts and labor that Respondent failed to provide, as follows:

- a. Respondent failed to remove and replace the left quarter outer panel.
- b. Respondent failed to remove and replace the left quarter nameplate.
- c. Respondent failed to remove and replace the left rear combination lamp.

#### **TENTH CAUSE FOR DISCIPLINE**

##### **(Untrue or Misleading Statements)**

24. Respondent is subject to discipline under Code section 9884.7, subdivision (a)(1), in that on or about August 31, 2006, Respondent made statements which he knew or which by exercise of reasonable care he should have known were untrue or misleading. Respondent falsely represented to the operator and CSAA on Repair Order Number 1909 that the operator's vehicle had been repaired pursuant to the insurance estimate. In fact, Respondent

///

1 failed to perform services and/or repairs, as more particularly set forth in paragraph 23,  
2 subparagraphs a through c, above.

3 **ELEVENTH CAUSE FOR DISCIPLINE**

4 **(Fraudulent Acts)**

5 25. Respondent is subject to discipline under Code section 9884.7, subdivision  
6 (a)(4), in that on or about August 31, 2006, Respondent committed acts which constitute fraud by  
7 accepting payment from the operator and CSAA to repair the operator's vehicle pursuant to the  
8 insurance estimate. In fact, Respondent failed to perform services and/or repairs, as more  
9 particularly set forth in paragraph 23, subparagraphs a through c, above.

10 **TWELFTH CAUSE FOR DISCIPLINE**

11 **(Failure to Set Forth Current Odometer Reading on a Signed Document)**

12 26. Respondent is subject to discipline under Code section 9884.7, subdivision  
13 (a)(2), in that on or about August 31, 2006, Respondent provided the consumer with Repair  
14 Order Number 1909, which did not set forth the vehicle's current odometer reading.

15 **THIRTEENTH CAUSE FOR DISCIPLINE**

16 **(Failure to Comply with the Automotive Repair Act)**

17 27. Respondent is subject to discipline under Code section 9884.7, subdivision  
18 (a)(6), in that on or about August 31, 2006, Respondent failed to materially comply with section  
19 9884.8 of that Code by failing to provide the consumer with an invoice that described all service  
20 work performed and parts supplied.

21 **OTHER MATTERS**

22 28. Under Code section 9884.7, subdivision (c), the director may invalidate  
23 temporarily or permanently or refuse to validate, the registrations for all places of business  
24 operated in this state by Rojas R. Ramzey, doing business as Ramzeys Auto Body & Painting,  
25 upon a finding that he has, or is, engaged in a course of repeated and willful violations of the  
26 laws and regulations pertaining to an automotive repair dealer.

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

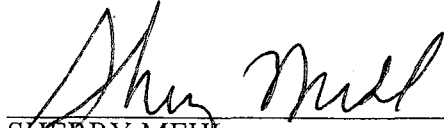
4 1. Temporarily or permanently invalidating Automotive Repair Dealer  
5 Registration Number AJ 223732, issued to Rojas R. Ramzey, doing business as Ramzey's Auto  
6 Body & Paint;

7 2. Temporarily or permanently invaliding any other automotive repair dealer  
8 registration issued to Rojas R. Ramzey, doing business as Ramzey's Auto Body & Paint;

9 3. Ordering Rojas R. Ramzey to pay the Bureau of Automotive Repair the  
10 reasonable costs of the investigation and enforcement of this case, pursuant to Code section  
11 125.3; and,

12 4. Taking such other and further action as deemed necessary and proper.

13  
14 DATED: 2/22/08

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17 SHERRY MEHL  
18 Chief  
19 Bureau of Automotive Repair  
20 Department of Consumer Affairs  
21 State of California  
22 Complainant  
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